

Office Memorandum • UNITED STATES GOVERNMENT***OGC Has Reviewed***

TO : General Counsel

DATE: 24 October 1945

FROM : Civilian Division, Personnel Branch

SUBJECT: Pay Increases Upon Restoration to Duty After Military Service

A legal opinion is requested as to when a permanent civil service employee (as distinguished from a war service appointee) restored to duty after honorable discharge from the Army is entitled to a within-grade promotion within the meaning of the Federal Employees Pay Act of 1945 (Public Law 106, 79th Congress, 1st Session) in view of the decision of the Comptroller General dated April 9, 1945 (B-48455).

The circumstances are these:

Employee "A" who has a permanent status - ~~as~~ distinguished from a war service status - was promoted from Grade CAF-7, \$2600 per annum to Grade CAF-9, \$3200 per annum on May 1, 1942. On August 3, 1942 employee "A" entered the armed forces and reported back to duty in O.S.S. to the same (civilian) position. On May 11, 1943, employee "A" was promoted to a civilian position classified by the Civil Service Commission at Grade CAF-12, which he continued to occupy until his discharge and reemployment at Grade CAF-12 on November 6, 1944.

This case is distinguished from that presented in the above mentioned division of the Comptroller General in that:

1. The promotions involved were de facto; not "record" or "paper" promotions, based upon seniority, and
2. The employee was not absent from his civilian position even though he was in the military service.

STATINTL


Civilian Division, Personnel Branch

see also B-51754, 24 Aug. 1945